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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/664,493

09/18/2003

Anthony P. Cappo

K19-029

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R. Neil Sudol
714 Colorado Avenue
Bridgeport, CT 06605-1601

EXAMINER

MAI, HUY KIM

ART UNIT

PAPER NUMBER

2873

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/664,493

Applicant(s)

CAPPO ET AL.

Examiner

Huy K. Mai

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 33 is/are allowed.
- 6) ☒ Claim(s) 13-20 and 24-32 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Huy K. Mai
Examiner
Art Unit 2873

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) filed Dec. 15, 2003 is acknowledged.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "406" has been used to designate both a magnifying lens and a printed fixation image (see Fig. 4B).

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations "moving said light source between said display and said eye" as claimed in claim 30 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 13-20 and 24-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The three steps of “generating”, “recording” and “generating” in a method claims 13-16 do not describe the preamble “a method of testing the visual field of a patient”. Such these three steps would not carry out a result to determine what the result of the visual field test is. The lacking of a result to determine the visual field test render the limitations in claims 13-16 indefinite.

Similarly, the three steps of “presenting”, “producing” and “operating” in a method claim 17 do not describe the preamble “a method of testing the visual field of a patient”. Such these three steps would not carry out a result to determine what the result of the visual field test is. The lacking of a result to determine the visual field test render the limitations in claims 17-20 and 24 indefinite.

Still similarly, the steps in claims 26, 27 would not carry out a result to determine what the result of the visual field test is. The lacking of a result to determine the visual field test render the limitations in claims 26-32 indefinite.

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Regarding claim 25, the limitations in claim 25 is unclear because of a curve of the pupil, regular space intervals, array of variables describing tangent to a curve of the pupil, slop, the left and right edges, and the distance. What does the applicant mean by "as well as" (claim 25, line 9? The features "a curve of the pupil", "regular space intervals", "an array of variables describing tangent to a curve of the pupil", "slop", "the left and right edges" and "the distance" are undefined.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 13-20, 24, 26, 27, 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Ron (5,933,210).

Regarding claims 13-16, 27 and 31, Ron (Figs. 1a, 8; column 5, lines 1-31) discloses an apparatus comprising a test display area including test images (21, 22) at a different points of the patient's visual field and a pair of spaced display areas (11, 12) for displaying two binocularly displaced images (13, 14). The patient uses a control box in response to the testing images (21, 22). It should be noted that although claims 13-16 "method claims", the method steps consist of the broad steps of "generating", "recording" and "generating" etc and therefore these steps would be inherently satisfied by the apparatus of the reference.

Regarding claims 17, 18, 20, 24 and 32 Ron (Figs. 1a, 8; column 5, lines 1-31 and column 9, lines 23-67) discloses an apparatus comprising two electronic displays 68 for presenting

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stereoscopic or binocularly displaced fixation images to the respective eyes of the patient and a computer 61 for operating the apparatus. Ron claimed in claim 1, lines 13-21 that a second image is perceived by a second eye of the observer only.

Regarding claim 19, Ron's apparatus including a third displaying member 66 different from the two electronic displays 68.

Regarding claim 26, Ron (column 9, lines 56-67) discloses a miniature TV, a matrix of LCDs ... may be employed instead of LCD arrays ... It will further be appreciated that the invention encompasses within its scope the use of VDU (video Display Unit). Thus Ron discloses the projection of video image.

8. Claims 25, 27 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Braeuning (5,550,602).

Regarding claim 25, Braeuning (Figs. 1 and 2; columns 3-6) discloses an apparatus for real-time measuring the position of the eyes (column 4, lines 30-35 and column 5, lines 31-36) including a camera system connected to a computer and sensor 10. The features "a curve of the pupil", "regular space intervals", "an array of variables describing tangent to a curve of the pupil", "slop", "the left and right edges" and "the distance" are inherently included in the Braeuning's apparatus. It should be noted that although claim 25 "method claims", the method steps consist of the broad steps of "recording", "generating" and "calculating" etc and therefore these steps would be inherently satisfied by the apparatus of the reference.

Regarding claims 27 and 31, Braeuning (Figs. 1-2) discloses an apparatus for examining visual field comprising a display for displaying the fixation mark and test marks and controlling by a computer 1. The method steps consist of the broad steps of "presenting",

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“producing” and “operating” etc and therefore these steps would be inherently satisfied by the apparatus of the reference.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braeuning in view of Haines et al (RE. 28,921).

Braeuning (Figs. 1-2) discloses an apparatus for examining visual field comprising a display 9 for displaying the fixation mark and test marks and controlling by a computer 1. Braeuning (column 4, lines 66-67) also discloses that in the case of the passive display, the display 9 is illuminating from the rear. However, Braeuning does not disclose said fixation image is energizing a light source separate from said display and said display includes a projection screen. Haines et al discloses an apparatus for examining visual field using a passive display that comprising a projection screen 22 and light source (32,34,36) for energizing the fixation image. Therefore it would have been obvious at the time the invention was made to those having skill in this art to modify the passive display in the Braeuning's device in light of Haines et al's teachings by forming a passive display including a projection screen and a separate light source (32,34,36) for energizing the fixation image for the same purpose of examining visual field of a patient.

Allowable Subject Matter

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11. Claims 1-12 and 33 are allowed.
12. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
13. Claims 22 and 23 are objected to as being dependent upon the above objected claim.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.



Huy Mai
Primary Examiner
Art Unit 2873

HKM/
January 26, 2007

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